

**PT 00-13**

**Tax Type: Property Tax**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

**THE TRY CENTER,  
APPLICANT**

**Docket No: 99 PT 0017  
(97-16-468)**

**Real Estate Exemption  
For 1997 Tax Year**

**P.I.N. 16-07-226-013**

**Cook County Parcel**

**v.**

**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

**Kenneth J. Galvin  
Administrative Law Judge**

**RECOMMENDATION FOR DISPOSITION**

**APPEARANCES:** Mr. Ernest E. Wiley, on behalf of The Try Center, Inc.

**SYNOPSIS:** This proceeding raises the issue of whether Cook County Parcel, identified by index number 16-07-226-013 (hereinafter the “subject property”) should be exempt from 1997 real estate taxes under 35 ILCS 200/15-65 of the Property Tax Code, in which all property actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit, is exempted from real estate taxes.

This controversy arose as follows: On January 6, 1998, The Try Center, Inc. (hereinafter the “Center”) filed a Property Tax Exemption Complaint with the Cook County Board of (Tax) Appeals seeking exemption from 1997 real estate taxes for the subject property. Dept. Ex. No. 1. The Board reviewed the Center’s Complaint and

recommended that the 1997 exemption be denied. The Illinois Department of Revenue (hereinafter the “Department”) accepted the Board’s recommendation in a determination dated January 22, 1999. This determination found that the subject property was not in exempt ownership and not in exempt use in 1997. Dept. Ex. No. 2. The Center filed a timely appeal of the Department’s denial of exemption. On December 9, 1999, a formal administrative hearing was held with Loretta A. Ragsdell-Dade, founder and executive director of the Center, testifying. Following a careful review of the testimony and evidence, it is recommended that the Department’s determination be affirmed.

**FINDINGS OF FACT:**

1. Dept. Ex. Nos. 1 and 2 establish the Department’s jurisdiction over this matter and its position that the subject property was not in exempt ownership or use during 1997.
2. On February 26, 1992, the Center was reinstated with the Secretary of State as a not for profit organization in the State of Illinois. Tr. p. 8; Applicant’s Ex. No. 1.
3. The Center has been exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code since August of 1983. The Center has been exempt from retailers’ occupation tax in the State of Illinois since January 29, 1997. Tr. pp. 11-13; Applicant’s Ex. Nos. 2 and 3.
4. The Illinois Department of Children and Family Services (“DCFS”) had two contracts with the Center, both effective July 1, 1996, and expiring June 30, 1997, in the amounts of \$266,880 and \$455,832, respectively. Tr. pp. 13-15; Applicant’s Ex. Nos. 4 and 5.

5. The DCFS contracts required the Center to provide services for wards of the State of Illinois. The center would place wards in relative or non-relative foster homes and would then monitor, license, supervise and train the foster parents. The Center provided counseling, job and food pantry assistance, clothing and transportation. The Center also operated a visitation center where the wards could meet with relatives. Tr. pp. 17-18.
6. The Center operated under the Illinois Childcare Act, which mandates how foster care is to be provided and the amounts that contractors and foster parents will be paid. Tr. p. 19.
7. In accordance with the DCFS contracts, the Center was required to provide services for all children referred, without regard to age, race, disability, gender, primary language or religion. Tr. p. 20; Applicant's Ex. Nos. 4 and 5.
8. The Center also sponsored family, individual and group counseling, community education programs, family crisis intervention and support services, health and housing assistance. These programs were open to the public, including "walk-ins." Tr. pp. 17-18, 20-21, Applicant's Ex. No. 18.
9. The Center's unaudited "Statement of Support, Revenue and Expenses" for June 30, 1997, and June 30, 1998, shows revenue from DCFS contracts of \$622,080 and \$298,080, representing 90% and 99%, respectively, of total revenue received. Other revenue received was from contributions and fundraising. Salary expenses were \$359,000, and \$119,666, respectively, with the highest paid employee being the founder and executive director, earning \$45,000/year. Other employees included case managers, clerical and support staff and transporters. Tr. pp. 22-25; Applicant's Ex. Nos. 6 and 7.

10. The Center's "Client Services Fees and Programs Participation Policy," states that "[C]ertain programs such as special luncheons, community theatres and fundraisers requires (sic) a monetary donation. However, 20% of all tickets are allocated and reserved for patrons desiring to participate but lack (sic) the monetary means to participate." Tr. pp. 26-28; Applicant's Ex. Nos. 8 and 9.
11. The subject property requires four separate addresses: 527 and 529 Lake Street, and 118 and 122 North East Avenue, in Oak Park Illinois. The floor plan layout shows a family visitation center, case management area, clinical services and reception area, children's theatre, tumbling area, staff offices, homework and tutoring area, dance studio and activities and game area. Tr. pp. 29-30; Applicant's Ex. Nos. 10 and 17.
12. A contract for the purchase of the subject property was signed by "Loretta A. Dade" on May 9, 1996, in the amount of \$230,000, with \$10,000 paid as a down payment. Tr. pp. 32-34; Applicant's Ex. Nos. 12 and 16.

### **CONCLUSIONS OF LAW:**

An examination of the record establishes that the Center has not demonstrated, by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the property from 1997 real estate taxes. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 limits the General Assembly's power to exempt property from taxation as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution. Board of Certified Safety Professionals v. Johnson, 112 Ill. 2d 542 (1986). Furthermore, Article IX, Section 6 does not, in and of itself, grant any exemptions. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limitations imposed by the constitution. Locust Grove Cemetery v. Rose, 16 Ill. 2d 132 (1959). Thus, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions or limitations on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App. 3d 497 (1<sup>st</sup> Dist. 1983).

In accordance with its constitutional authority, the General Assembly enacted section 15-65 of the Property Tax Code, which exempts all property which is both: (1) owned by “institutions of public charity” and (2) “actually and exclusively used for charitable or beneficent purposes” (35 ILCS 200/15-65). Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968) (hereinafter "Korzen").

The applicant’s ownership of the subject property was established by a deed evidencing that the Society acquired title to the subject property on April 12, 1995. Taxpayer’s Ex. No. 7. Thus, the question becomes whether the Society qualifies as an “institution of public charity” under the terms of Korzen. In Korzen, the Illinois Supreme Court outlined the following “distinctive characteristics” of a charitable institution: (1) the benefits derived are for an indefinite number of persons [for their general welfare or in some way reducing the burdens on government]; (2) the organization has no capital, capital stock or shareholders; (3) funds are derived mainly from private and public charity, and the funds are held in trust for the objects and purposes expressed in the charter; (4) the charity is dispensed to all who need and apply for it, and does not provide

gain or profit in a private sense to any person connected with it; (5) the organization does not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. Korzen *supra* at 157.

The above factors are guidelines for assessing whether an institution is a charity, but are not definitive requirements. DuPage County Board of Review v. Joint Comm's on Accreditation of Healthcare Organizations, 274 Ill.App.3d 461 (1965). Thus, a rigid formula is not to be applied to all fact situations but instead "courts consider and balance the guidelines by examining the facts of each case and focusing on whether and how the institution serves the public interest and lessens the State's burden." *Id.* at 469.

At the evidentiary hearing, the Society presented evidence that it had no capital stock or shareholders. Since its inception in 1947, the Society has never had shareholders, shares or dividends. Tr. pp. 40-41; Taxpayer's Ex. No. 2. I have also concluded that the Society does not provide gain or loss in a private sense to persons connected with it. The executive director of the Society earns \$53,000 per year, and two other employees earn \$28,000 per year. Tr. pp. 59, 81-86. This salary structure is reasonable and it is also noted that the Society's Board of Directors, executive officers, and some editors, are neither compensated nor reimbursed for expenses. Tr. pp. 49-58.

For the above stated reasons, it is recommended that the Department's determination which denied the exemption from 1995 real estate taxes on the grounds that the subject property was not owned by an "institution of public charity" should be affirmed, and Cook County Parcels, Index Numbers 17-03-105-001 and 17-03-105-019, should not be exempt from 1995 real estate taxes.

ENTER:

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Kenneth J. Galvin

December 21, 1999